

Message Text

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ACTION EUR-12

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FM AMEMBASSY BERN
TO SECSTATE WASHDC PRIORITY 4456
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AMEMBASSY LONDON
AMEMBASSY PARIS
AMEMBASSY ROME
AMEMBASSY VIENNA
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USMTN ALSO FOR MISSION
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SUBJ: NEW SWISS BANKING RULE ON FOREIGN DEPOSITS

REF: BERN 2468, 211, AND A-76

1. SUMMARY: SWISS NATIONAL BANK ANNOUNCED NEW
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AGREEMENT WITH BANKS THAT STIPULATES RULES OF
CONDUCT ON ACCEPTING FOREIGN DEPOSITS. RULES
AIM AT ELIMINATING DEPOSITS OF FUNDS ILLEGALLY
TRANSFERRED INTO SWITZERLAND OR OBTAINED ILLEGALLY
ABROAD. BANKERS STATED NEW AGREEMENT MAKES
LITTLE OR NO CHANGE IN CURRENT BANKING PRACTICE
AND DOES NOT CHANGE BANK SECRECY PROVISIONS.

HOWEVER, IT NOW QTE CODIFIES UNQTE GOOD CONDUCT
RULES WHICH WILL BECOME OBLIGATORY FOR ALL BANKS
WITH SEVERE PENALTY FOR VIOLATIONS. PRESS
DESCRIBED AGREEMENT AS CLEVER POLITICAL MOVE
TO CALM PUBLIC REACTION FOLLOWING CHIASSO SCANDAL.
COPY OF AGREEMENT BEING FORWARDED. END SUMMARY.

2. SWISS NATIONAL BANK (SNB) JUNE 2 ANNOUNCED
NEW AGREEMENT REACHED WITH SWISS BANKERS' ASSOCIATION
(BA) AND BANKS DOMICILED IN SWITZERLAND ON RULES
GOVERNING DEPOSIT OF FUNDS IN SWITZERLAND. AGREEMENT
RUNS FOR FIVE YEARS EFFECTIVE JULY 1, 1977.
NEW ACCORD WAS APPROVED BY SBA EXECUTIVE COMMITTEE.
IT MUST ALSO BE APPROVED BY ALL BANKS AND FINANCIAL
INSTITUTIONS.

3. PRINCIPAL STATED OBJECTIVES ARE THAT BANKS
MUST ASSURE THAT IDENTITY OF DEPOSITORS IS CLEARLY
ESTABLISHED AND AVOID PERMITTING BANK SECRECY
(INCLUDING NUMBERED OR CODED ACCOUNTS) TO BE USED
TO PERMIT OR FACILITATE ACTS CONTRARY TO ACCEPTED
BANKING RULES. FURTHERMORE, BANKS HAVE ONE YEAR
TO ASSURE THAT EXISTING DEPOSITS ABOVE SF ONE
MILLION ARE IN COMPLIANCE WITH RULES OF CONDUCT
AND MUST TERMINATE THE CLIENT RELATIONSHIP WHEN-
EVER VIOLATIONS BECOME KNOWN.

4. NEW RULES ON DEPOSITS STIPULATE:

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A) BANKS ARE PROHIBITED FROM OPENING OR
ADMINISTERING ACCOUNTS OR DEPOSITS OF FUNDS
WITHOUT IDENTIFYING THE DEPOSITOR. WHERE AN
AGENT MAKES DEPOSIT ON ANOTHER PARTY'S BEHALF,
AND IF THERE IS REASON TO QUESTION LEGALITY OF
FUNDS, BANK MUST REQUIRE WRITTEN STATEMENT FROM
DEPOSITOR THAT SWISS BANKING RULES OF GOOD CONDUCT
HAVE NOT BEEN VIOLATED. MAILING ADDRESS COMPANIES
ALSO MUST PROVIDE EXTRACT OF COMMERCIAL REGISTER
WHERE DOMICILED AND CLEARLY INDICATE NAME AND
DOMICILE OF PERSON WHO ACTUALLY CONTROLS THE
COMPANY.

B) BANKS MUST NOT ACCEPT FUNDS WHICH
RESULTED FROM ACTIVITIES OF WHICH BANKS REASONABLY
COULD BE EXPECTED TO BE AWARE AND THAT ARE PUNISH-
ABLE UNDER SWISS LAW.

C) BANKS MUST NOT AID AND ABET OPERATION

OF ILLEGAL CAPITAL TRANSFERS AND TAX EVASION. THIS INCLUDES REFRAINING FROM USING BANK REPS ABROAD OR PROMISING COMMISSIONS TO OTHERS WITH THE INTENT TO ATTRACT ILLEGAL CAPITAL TRANSFERS.

5. CONTROL MEASURES TO ENFORCE COMPLIANCE WILL BE EXERCISED BY BANK EXAMINING UTILITY AUTHORIZED BY FEDERAL BANKING COMMISSION. PENALTY FOR VIOLATION IS FINE UP TO MAXIMUM SF 10 MILLION THAT CAN BE LEVIED BY FIVE-MEMBER ARBITRATION COMMISSION HEADED BY FEDERAL JUDGE WITH TWO MEMBERS FROM SNB AND TWO FROM SBA.

6. PRESS REPORTED THAT SNB AND SBA HAVE STRONGLY URGED ALL BANKS TO SIGN AGREEMENT. INTERNAL SBA COMMISSION IS REPORTED TO BE DRAWING UP PROPOSED LIST OF NEW INTERNAL CONTROL MEASURES BANKS SHOULD UNCLASSIFIED

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ADOPT WHICH WILL BE RECOMMENDED TO BANKS THIS AUTUMN. PRESS ALSO REPORTED THAT SNB HAD WANTED BANKS TO NUMBER ALL THEIR ACCOUNTS BUT SOME BANKS RESISTED, PLEADING THAT TO DO SO WOULD INVOLVE SERIOUS ADMINISTRATIVE PROBLEMS.

7. SNB PRES LEUTWILER TOLD PRESS CONFERENCE THAT NEGOTIATIONS HAD BEEN DIFFICULT AND AGREEMENT MAY NARROW SCOPE OF BANK ACTIVITY. REPORTERS ASKED WHETHER ACCORD, LACKING ANY RADICAL NEW DEPARTURE, WAS INTENDED ONLY TO HAVE PSYCHOLOGICAL EFFECT AND WHETHER SUCH RULES COULD HAVE PREVENTED CREDIT SUISSE CHIASSO SCANDAL. SNB GENERAL MANAGER LANGUETIN SAID NEW RULES CAN ONLY REDUCE RISKS OF CHIASSO-TYPE AFFAIRS, BUT THEY ARE AIMED AT CORRECTING REAL PROBLEMS. HE STRESSED THAT AGREEMENT CODIFIES GOOD CONDUCT ACTUALLY FOLLOWED BY MAJORITY OF SWISS BANKS, THUS ELIMINATING SOME IMPRECISION, AND REQUIRES UNIFORM PRACTICE BY ALL BANKS.

8. SNB PRES SARASIN SAID "POLITICAL CLIMATE" CREATED IN SWITZERLAND BY CHIASSO SCANDAL HAD ACCELERATED CONCLUSION OF AGREEMENT, SOME ASPECTS OF WHICH HAD BEEN DISCUSSED WITH SNB BEFORE SCANDAL BROKE. HE STRESSED IMPORTANCE OF STRONG PENALTY PROVISION. SARASIN NOTED ACCORD IS CLEAR ON MIS-USE OF BANK SECRECY AND SAID THAT NUMBERED ACCOUNTS NOW ARE TO BE TREATED LIKE ALL NORMAL ACCOUNTS, NUMBER PROTECTS CLIENT'S PRIVACY ONLY WITHIN THE BANK.

9.. PRESS GENERALLY REPORTED THAT NEW AGREEMENT IS

CONSEQUENCE OF CHIASSO AFFAIR AND MARKS INITIAL
REAL SNB SUCCESS IN MOVING TO EXERT STRONGER CONTROL
OVER BANKS. DER BUND COMMENTED THAT AGREEMENT
AMOUNTS TO DEFEAT OF STRONG SWISS BANKS WHO WERE
CONSTRAINED TO YIELD IN FACE OF PUBLIC REACTION TO
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CHIASO SCANDAL. ACCORD ALSO WAS DESCRIBED AS
CLEVER POLITICAL MOVE IN VIEW OF SOCIALIST PLAN FOR
PUBLIC INITIATIVE TO VOTE ON GOVT PARTICIPATION
IN BANK OWNERSHIP AND REAL POSSIBILITY OF ADDITIONAL
EXTREME MEASURES BEING PROPOSED DURING SUMMER
PARLIAMENT DEBATE ON BANK CONTROL. SEVERAL PAPERS
COMMENTED THAT NEW AGREEMENT MUST BE VIEWED IN
BROAD CONTEXT OF VARIOUS MEASURES THAT HAVE BEEN
TAKEN IN RECENT PAST TO STRENGTHEN CONTROL OVER
BANKS. TRIBUNE DE GENEVE SUGGESTED THAT THESE
RULES COULD FACILITATE CONCLUSION OF OTHER NEW
BILATERAL AGREEMENTS SUCH AS JUDICIAL ASSISTANCE
TREATY WITH US.

10. EMBASSY COMMENT: NEW RULES OF CONDUCT ARE
IMPORTANT BECAUSE THEY BEGIN TO DEFINE WHAT CON-
STITUTES "GOOD BANKING CONDUCT". THIS TERM APPEARS
IN SWISS LAW COVERING BANKS, AS A FUNDAMENTAL
CONDITION FOR PERMISSION TO CONDUCT BANK OPERATIONS
WITHOUT ANY CLARIFICATION AS TO WHAT IT MEANS.
NEW RULES SHOULD POSE NO SERIOUS PROBLEM FOR
LARGEST AND MOST IMPORTANT SWISS BANKS.
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